

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 7
R. ESMERIAN, INC., and	:	Case No. 10-[ ]
RALPH ESMERIAN	:	Case No. 10-[ ]
Alleged Debtors.	:	

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**AFFIDAVIT OF MARK P. HIRSCHHORN PURSUANT TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 1003**

STATE OF NEW YORK )  
                          ) ss.  
COUNTY OF NEW YORK )

1. I make this affidavit on behalf of Northlight Fund LP (“Northlight”), a petitioning creditor in the involuntary chapter 7 bankruptcy cases (the “Bankruptcy Cases”) to be filed by Northlight and others against R. Esmerian, Inc. (“REI”) and Ralph Esmerian (“Esmerian,” and together with REI, the “Alleged Debtors”). I am fully familiar with the facts set forth herein either through my own personal knowledge or through a review of documents relevant to Northlight’s claims against REI. My knowledge of the facts set forth in paragraphs 3 through 6 is based almost entirely on a review of relevant documents. If called to testify in connection with the involuntary bankruptcy case, the following would constitute my testimony.

2. I am a manager of Northlight GP, LLC, the general partner of Northlight, am authorized to make this affidavit and to execute a petition commencing the Bankruptcy Cases on its behalf. Northlight is a Delaware limited partnership, with a principal place of business at 24 West 40<sup>th</sup> Street, 12<sup>th</sup> Floor, New York, New York. Northlight is a creditor of REI as assignee of a certain promissory notes and related documents, as described in greater detail below.

### The REI Loan

3. On or about December 15, 2006, Acorn Capital Group LLC (“Acorn”) entered into a Loan Agreement (the “REI Loan Agreement”), as amended, modified and restated from time to time, pursuant to which Acorn made a loan, to REI, initially in the amount of \$25 million and up to a maximum of \$40 million (the “REI Loan”). A true and correct copy of the REI Loan Agreement is annexed hereto as Exhibit A.

4. The REI Loan Agreement contemplated that the obligations due Acorn under the REI Loan Documents would be evidenced by one or more uncertificated Secured Registered Promissory Notes (each an “ESM Note” and collectively the “ESM Notes”). See Loan Agreement § 2(c).

5. The Obligations (as defined in the REI Loan Agreement) were guaranteed by Esmerian pursuant to a Guaranty dated December 15, 2006, as amended from time to time (the “Guaranty,” and together with the REI Loan Agreement and all documents related or ancillary thereto (the “REI Loan Documents”). A copy of the Guaranty is annexed hereto as Exhibit B.

### The Assignments

6. By a certain Assignment of Note(s), Causes of Action and Ancillary Documents dated September 11, 2009 (the “Assignment”), Acorn transferred, assigned, granted and conveyed to Northlight those certain Secured Registered Promissory Notes Nos. ESM-5 (dated December 15, 2006) and ESM-10 (dated December 28, 2006) (together, the “Assigned Notes”) payable by REI to Acorn in the aggregate principal amount of \$5,000,000 (the “Principal Amount”). A copy of the Assignment is annexed hereto as Exhibit C. Northlight paid consideration equal to the Principal Amount, plus accrued interest, plus servicing fees due on the Assigned Notes for the Assigned Notes.

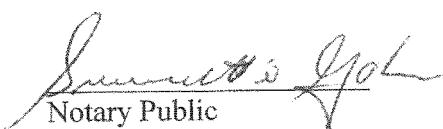
7. As of the date hereof, REI and Esmerian are indebted to Northlight in the aggregate principal amount of \$5,000,000, plus unpaid interest, fees and other Obligations (as defined in the REI Loan Agreement) on account of the Assigned Notes. At least \$13,475.00 of the amount due Northlight is unsecured.

8. The Assigned Notes were not assigned to Northlight for the purposes of commencing the Bankruptcy Cases.



Mark P. Hirschhorn, Manager,  
Northlight GP, LLC, the  
General Partner of Northlight  
Fund, LP.

Sworn to and Subscribed to me this  
17 day of May, 2010



Sreewattie Gobin  
Notary Public

SREEWATTIE GOBIN  
NOTARY PUBLIC STATE OF NEW YORK  
NEW YORK COUNTY  
LIC. #01G06212568  
COMM. EXP. 10-13-2013